

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

DENNIS CASTRO-CANO,
Petitioner,

vs.

WARDEN, BUTLER COUNTY
CORRECTIONAL COMPLEX, *et al.*,
Respondents.

Case No. 1:20-cv-496

McFarland, J.
Bowman, M.J.

**REPORT AND
RECOMMENDATION**

Petitioner, an Immigration and Customs Enforcement (ICE) detainee previously located at the Butler County, Ohio Jail, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 in this Court. (Doc. 1). In the petition, petitioner challenges his custody pending removal and, as relief, seeks immediate release. (*See id.* at PageID 6, 7).

On March 29, 2021, the undersigned issued an Order for petitioner to show cause in writing, within thirty (30) days, why this why this action is not subject to dismissal. (Doc. 11). As noted in the Order, it no longer appears that petitioner is in custody. Petitioner is not listed as a person currently in custody on the Butler County Jail inmate roster and the ICE Online Detainee Locator System does not include petitioner as a person currently in ICE custody.¹

To date, more than thirty (30) days after the March 29, 2021 Order, petitioner has failed to respond to the Order of the Court.²

District courts have the inherent power to *sua sponte* dismiss civil actions for want of prosecution “to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” *Link v. Wabash R.R.*, 370 U.S. 626, 630-631 (1962). Failure of a party to respond to an order of the Court warrants invocation of the Court’s inherent power in this federal habeas

¹ Viewed at <https://butler.miamivalleyjails.org/> and <https://locator.ice.gov/odls/#/index>.

² On April 13, 2021, the Order was returned to the Court as undeliverable, marked “not at this address.” (*See* Doc. 12). Petitioner has not provided the Court with an updated address.

corpus proceeding. *See* Fed. R. Civ. P. 41(b); *see also* Rule 11, Rules Governing Section 2254 Cases in the United States District Courts, 28 U.S.C. foll. § 2254.

Accordingly, this case should be dismissed for petitioner's failure to comply with the Court's March 29, 2021 Order. *In re Alea*, 286 F.3d 378, 382 (6th Cir. 2002).

IT IS SO RECOMMENDED.

s/Stephanie K. Bowman
Stephanie K. Bowman
United States Magistrate Judge

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).